REMARKS

Claims 1-6, 8-13, 15-17, 19-31 are pending in the present application. In the Office Action mailed June 6, 2005, the Examiner rejected claims 1-6, 8-13, 15-17, 19-23, and 30-31 under 35 U.S.C. §103(a) as being unpatentable over Hube et al. (USP 5,442,541) in view of Fenstemaker et al. (USP 6,490,684 B1). Claims 24-29 stand rejected under 35 U.S.C. §103(a) as being obvious over Hube et al. in view of Applicant's Admitted Prior Art and further in view of Fenstemaker et al.

In the rejection of claims 1-6, 8-13, 15-17, and 19-31, the Examiner maintained a previous rejection that the claimed invention was unpatentable over the combination of Hube et al. and Fenstemaker et al. While Applicant believes the remarks presented in the Response filed March 3, 2005 sufficiently set forth the patentable distinctions between that which is being claimed and that suggested by the combination of references; nevertheless, Applicant requests consideration of the remarks hereinafter which are believed to further highlight the shortcomings of the Examiner's rejection.

The Examiner has maintained, notwithstanding a lack of direct teaching or suggestion in the references themselves, that Hube et al. and Fenstemaker et al., when considered together, teach the transmission of an electronic request over a public or first communication interface and the transmission of a software key or enabler over a private or second communication interface. The Examiner's rejection ignores however that Hube et al. teaches directly away from such a bifurcated communication system.

Applicant agrees that Hube et al. suggests communication over one of a number of communication types, such as telephone lines, LANs, WANs, cellular phone channels, infrared links, and serial channels. However, regardless of the type of communication channel, Hube et al. is adamant that only one communication channel is used to make a software enablement request and enable the desired software. In fact, Hube et al. states that it is an object of its invention to provide such a "common communication interface". Specifically, Hube et al. states, "The invention relates to a system for the selective enablement of machine features and more particularly, to the selective enablement of machine features from a remote station over a common communication channel." Col. 1, ll. 6-10. Hube et al. continues, "It is still another object of the present invention to

selectively change the features of machine by remote designation or feature downloading from a central control station over a common communication channel." Col. 2, ll. 59-63. The description of Fig. 2 of 5,442,541 further highlights that a single communication channel is used to make a software enablement request and enable the software.

In this regard, the reference discloses that the "remote communication system including remote host 157 [is] interconnected to Control 71 of machine 30 through a suitable channel such as telephone line 175..." Col. 10, ll. 15-21. Hube et al. further teaches that "a computer such as PC 159 with suitable input such as keyboard 180 is provided at the remote host 157 for use in establishing communication with modem 182 for transmission of data from machine 30 via line 175 to host 157 and from machine 157 to machine 30." Col. 10, ll. 44-48, emphasis added.

While it is clear from Hube et al. that communication between the remote machine and host is over a common communication channel, the reference further teaches that "access to the new upgrade features is enabled through a remote interface communication interface." Col. 14, ll. 18-19. To this end, Hube et al. teaches that "customers use the remote interface to request downloading of passwords or of codes to the system or remote host" whereupon "the remote host then enables the new features with the appropriate instructions and data communications over the shared communication line." Col. 14, ll. 20-24.

In operation, Hube et al. teaches that an operator at the remote station or at a given machine identifies a feature to be enabled and "enter[s] a feature enable mode". See col. 15, ll. 28-30. Accordingly, Hube et al. explicitly teaches the remote station communicates to the machine via the common communication interface to initiate a feature enablement or, in the alternative, a user at the machine initiates the feature enablement process by establishing communication between the machine and remote station over the common communication channel. In either case, however, the request to enable a software option is transmitted over the same communication channel that a "key" is transmitted to "unlock" a locked machine feature. That is, while Applicant disagrees that a WAN is, by definition, a public communication interface and that a telephone, email, or FAX interface, by definition, are private interfaces, as asserted by the

Examiner; nevertheless, Hube et al. teaches a single and common communication interface so, therefore, Hube et al. either teaches communication over only a single public interface or only a single private interface, but not both.

In combination with Hube et al, the Examiner relied upon Fenstemaker et al. While Fenstemaker et al. teaches an "ultrasound method and system for enabling an ultrasound device feature," there is no teaching or suggestion that a request for feature enablement is made over one communication interface and a password or key to enable the software is transmitted over a different communication interface. Fenstemaker et al. simply teaches that "a user requests a key from a remote source" and "the key is generated by the remote source (step 420) and transmitted to the ultrasound device 100 via the key receiver 150, which can be, for example, a network link or modem (step 430)." Col. 3, ll. 29-30, 34-37. Further, one skilled in the art, given the explicit teachings of Hube et al., would conclude that the communication disclosed by Fenstemaker et al. is via a common communication channel or interface. If a contradictory assumption could be made, then one skilled in the art would not be motivated to combine the references given that Hube et al. explicitly teaches a single and common communication channel for requesting software enablement and transmitting a key to enable the software.

Therefore, neither Hube et al. nor Fenstemaker et al. teaches or suggests separate communication interfaces for requesting feature enablement and transmitting a key to enable the feature. As such, given that claims 1, 17, and 24, each call for, in part, communication over two different communication interfaces or connections, it is believed that claims 1, 17, and 24, as well as those claims depending therefrom, to be in condition for allowance.

The Examiner rejected claim 9 under 35 U.S.C. §103(a) as being unpatentable over Hube et al. in view of Fenstemaker et al. The Examiner stated that "Hube does not explicitly teach receiving a host ID input, wherein the host ID corresponds to a physical location of a device." Office Action, January, 3, 2005, p. 4. The Examiner stated that Fenstemaker et al. teaches "wherein the host ID corresponds to a physical location of the device (see for example, Ethernet Hardware id) [col. 3, ll. 31-40, and col. 4 ll. 45-57, col.

5 ll. 1-13]." Id. The Examiner further stated that, "Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a method of receiving a host id that corresponds to a physical location of the device as taught by Fenstemaker and implement it within the system of Hube, in order to generate unique keys for each device according to their identification." Office Action, pp. 4-5. Applicant respectfully disagrees.

Claim 9 calls for a remote centralized facility that includes a computer programmed to receive a host ID input, wherein the host ID corresponds to a physical location of the device. Neither Fenstemaker et al. nor Hube et al. teaches or suggests a computer at the centralized facility to include a computer programmed to receive a host ID input, wherein the host ID corresponds to a physical location of the device. The Examiner concluded that Fenstemaker et al. teaches that the host ID corresponds to a physical location of the device and provided references in Fenstemaker et al. to support the conclusion -- namely, col. 3, ll. 31-40, and col. 4 ll 45-57, col. 5 ll. 1-13. However, these references do not teach or suggest a computer programmed to receive a host ID input, wherein the host ID corresponds to a physical location of the device. Instead, the references teach key generation and transmittal (see col. 3, ll.. 34-40), key composition and methods of using the key (see col. 4, ll.. 45-57), and key encryption and decryption using public and/or private keys (see col. 5, ll. 1-13). None of these passages in the reference teaches or suggests the remote centralized facility as having a computer programmed to receive a host ID input that corresponds to a physical location of the device.

Furthermore, as stated above, the Examiner asserted that Fenstemaker et al. teaches that "the host ID corresponds to a physical location of the device (see for example, Ethernet Hardware id)." Office Action, January 3, 2005, p. 4. One skilled in the art would not recognize that an Ethernet hardware ID corresponds to a physical location. That is, the Ethernet hardware ID identifies the hardware but not the physical location of the hardware. Also, Fenstemaker et al. fails to teach or suggest the receipt of an Ethernet hardware ID by a computer at a remote centralized facility. Fenstemaker et al. teaches that "[o]ther public keys can include an Ethernet hardware ID, a number

generated by a block-dongle located on a port, or any other unique number stored in the ultrasound device." Col. 5, ll. 10-13. Thus, while the key may include an Ethernet hardware ID, Fenstemaker et al. fails to teach or suggest receiving a host ID input, wherein the host ID corresponds to a physical location of the device.

Since the prior art fails to teach each and every element of the claimed invention, a prima facie case of obviousness has not been established. Applicant believes that claim 9 and the claims that depend therefrom are patentable over the prior art.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-6, 8-13, 15-17, and 19-31.

Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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